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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/714,196

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Peter Jakubowski

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2665

7590

12/20/2006

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EXAMINER

KLIMACH, PAULA W

ART UNIT

PAPER NUMBER

2135

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/20/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/714,196	Applicant(s) JAKUBOWSKI, PETER	
	Examiner Paula W. Klimach	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/11/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 18 is objected to because of the following informalities: A claim is supposed to comprise a sentence. Claim 18 is in the form of two sentences. Appropriate correction is required.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12, 15-16, 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Depp et al (2002/0030582 A1).

In reference to claim 1 Depp discloses a biometric network for use in time and attendance applications (abstract). The system comprises a time recording mechanism for recording the presence of a worker upon entry of a worker specific identifier at the time recording medium (paragraph 0035); a memory circuit for storing records of worker specific biometric reference data, each record being associated with a worker specific identifier (paragraph 0028); a biometric sensor (biometric device) operative to sense biometric data associated with a worker preset at the

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sensor (paragraph 0022); an intermittent comparison circuit (biometric network polling station), for intermittently comparing the sensed biometric data to the biometric reference data associated with the worker specific identifier entered at the time recording mechanism (paragraph 0023 and 0027); and

an indicator circuit operative to generate indicia representative of the comparison between the sensed biometric data and the biometric reference data associated with the worker specific identifier entered at the time recording mechanism (paragraph 0037).

In reference to claim 2 wherein the indicator circuit is a printer to generate the visible indicia (paragraph 0036). Depp generates a report, and reports are usually printed, Fig. 7 indicates printers therefore suggesting the ability to print.

In reference to claim 3 wherein the biometric sensor circuit is a fingerprint detection circuit (paragraph 0033).

In reference to claim 4 wherein the biometric sensor circuit is a voice detection circuit (paragraph 21).

In reference to claim 5 wherein the biometric sensor circuit is an eye feature detection circuit (paragraph 21).

In reference to claim 6 wherein the intermittent comparison circuit includes a variable control circuit for varying the rate of comparing the biometric data in relation to recording the presence of the worker (paragraph 0037).

In reference to claim 7 further comprising a processor operatively associated with the time recording mechanism, for regulating operation of the time recording mechanism in response to an instruction set operating in the processor (paragraph 0036).

In reference to claim 8 wherein the processor regulates the operation of the biometric sensor (0037).

In reference to claim 9 wherein the processor regulates the operation of the memory circuit (paragraph 0021).

In reference to claim 10 wherein the intermittent sampling circuit is implemented by the processor (paragraph 21).

In reference to claim 11 wherein the processor regulates the operation of the printing circuit (paragraph 36 and Figure 7).

In reference to claim 12 wherein the processor instructs the printer circuit to print a message that sensed biometric data from the worker conforms to referenced biometric data associated with the worker specific identifier entered at the time recording mechanism (paragraph 0036 and Fig. 7).

In reference to claim 15 wherein the indicator circuit is a display monitor to generate the visible indicia (Fig. 7).

In reference to claim 16 wherein the processor instructs the printer circuit to print a message that sensed biometric data from the worker conforms to referenced biometric data associated with the worker specific identifier entered at the time recording mechanism (paragraph 0037 and 0036 and Fig. 7).

In reference to claim 18 wherein the processor instructs the printer circuit to print a message that no comparison has been made between the sensed biometric data and referenced biometric data associated with the worker specific identifier entered at the time recording

mechanism (paragraph 0037). The time recorder as recited in claim 1 wherein the worker specific identifier is applied to an employee badge (paragraph 0021).

In reference to claim 19 wherein the worker specific identifier is applied to an identification card (paragraph 21).

In reference to claim 20 wherein the identification card is a timecard (paragraph 0021).

In reference to claim 21 wherein the worker specific identifier is an interrogatable electronic device (Fig. 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Depp in view of Burger (6,219,439).

In reference to claims 13 and 17 wherein the processor instructs the printer circuit to print a message that sensed biometric data from the worker does not conform to referenced biometric data associated with the worker specific identifier entered at the time recording mechanism.

Depp does not expressly disclose the case when the worker does not conform to the referenced biometric data.

Burger discloses the case when the worker does not conform to the referenced biometric data (column 5 lines 42-65).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to authenticate the user and determine that the user does not conform to the referenced biometric data as in Burger and print the result as suggested by Depp. One of ordinary skill in the art would have been motivated to do this because it would enable to system to positively confirm those that are authenticated by the system (Burger column 5 lines 60-65).

In reference to claim 14 wherein the processor instructs the printer circuit to print a message that no comparison has been made between the sensed biometric data and referenced biometric data associated with the worker specific identifier entered at the time recording mechanism.

Depp does not expressly disclose the case when the worker does not conform to the referenced biometric data.

Burger discloses the case when the worker does not conform to the referenced biometric data (column 5 lines 42-65). The comparison of the user's finger print determines whether the fingerprint is the same person and can further include whether there is a comparison at all.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to authenticate the user and determine that the user does not conform to the referenced biometric data as in Burger and print the result as suggested by Depp. One of ordinary skill in the art would have been motivated to do this because it would enable to system to positively confirm those that are authenticated by the system (Burger column 5 lines 60-65).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula W. Klimach whose telephone number is (571) 272-3854. The examiner can normally be reached on Mon to Thr 9:30 a.m to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PWK
Monday, December 11, 2006


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